

No. 3629

IN THE

United States Circuit Court of Appeals

For the Ninth Circuit

HERTA MARLOW,

Appellant,

VS.

CHARLES PAGANINI, as administrator of the
estate of David K. Marlow, deceased,

Appellee.

APPELLANT'S SUPPLEMENTAL PETITION
FOR A REHEARING.

ERNEST K. LITTLE,
Foxcroft Building, San Francisco,
*Attorney for Appellant
and Petitioner.*

FILED

FEB 14 1922

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*To the Honorable William B. Gilbert, Presiding
Judge, and the Associate Judges of the United
States Circuit Court of Appeals for the Ninth
Circuit:*

In Appellee's Reply to Appellant's Petition for Rehearing (page 3) he undertakes to set forth reasons why the contract in this case should be revised in order to protect the company.

The bill for interpleader as amended, filed by the company in the District Court, shows that the company never entertained a doubt as to its right to make the indorsement in this case, so far as the time of presentment of the notice of change accompanied by the policy was concerned. In other words, the bill for interpleader as amended shows that the com-

pany, who prepared the contract, understood it in the sense contended for by this appellant, and, with such understanding of the contract, were ready and willing to comply therewith, and have not sought to have the contract revised, nor to have it interpreted as contended for by appellee.

The appellee now proposes to revise the clause in question to read as follows:

“In order to change the beneficiary the insured must deliver to the company at its Home Office during his lifetime a written notice of change of beneficiary and the policy for indorsement of the change thereon by the company.”

(Appellee's Reply, page 4, beginning with third from last line.)

The italicized words are the ones which the appellee seeks to have interpolated.

The proposed revision would constitute a radical change in the policy and, as appellee asks this revision solely for the protection of the company who prepared the contract, it becomes important to know how the company understood the contract and whether it was satisfied therewith.

Appellant therefore prays that the bill for interpleader, as amended, may be duly certified and added to the record in this case.

Dated, San Francisco,
February, 11, 1922.

ERNEST K. LITTLE,
*Attorney for Appellant
and Petitioner.*